

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

JOHN NOTTINGHAM,)	
)	
Plaintiff,)	
v.)	1:06-cv-537-SEB-VSS
)	
STATE OF INDIANA, et al.,)	
)	
Defendants.)	

E N T R Y

I.

The clerk shall send the plaintiff a filed copy of the complaint and a filed copy of the plaintiff's request to proceed *in forma pauperis*.

II.

The plaintiff's request to proceed *in forma pauperis* is **denied and this action is dismissed**. The reasons for this disposition are the following:

1. Pursuant to 28 U.S.C. § 1915(e)(2)(B), a court shall dismiss a case at any time if the court determines that the action (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.

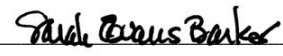
2. The State of Indiana is the defendant in this action. Under the Eleventh Amendment, "a State cannot be sued directly in its own name regardless of the relief sought," absent consent or permissible congressional abrogation. *Kentucky v. Graham*, 473 U.S. 159, 167 n.14 (1985). No consent or congressional abrogation has been alleged here. Even if it is possible to construe the complaint as also asserting claims against courts of the State of Indiana in Marion County and in Howard County, courts are not "persons" subject to suit under 42 U.S.C. § 1983. *Clark v. Clark*, 984 F.2d 272, 273 (8th Cir. 1993).

3. In short, the complaint fails to state a viable claim against any the defendant, and hence must be dismissed at this early point regardless of the plaintiff's financial circumstances.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 04/13/2006


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana